

SUPPORT FOR THE AMENDMENTS

Headings according to 37 C.F.R. § 1.77(b) are herein added to the specification.

The paragraph beginning at page 5, line 25, is amended to correct a obvious typographical error.  $T_g$  is known to one of ordinary skill in the art to represent the glass transition temperature of a material.

Claims 17-27 and 31 are herein canceled. These claims will be the subject matter for a Divisional Application to be filed during the pendency of the above-identified application.

Support for the amendment to Claim 28 is found on page 3, lines 32-34, page 5, lines 18-23, and beginning at line 37 and bridging to page 6, page 7, lines 12-14, page 12, lines 25-29, and page 14, lines 5-23, in the specification.

Claims 29-30 and 32 are amended to use wording and structure consistent with U.S. patent law practice.

Claim 33 is new and is supported on page 13, line 12, in the specification.

Claim 34 is new and is supported on page 8, lines 34-37, in the specification.

Claim 35 is new and is supported on page 9, lines 4-5, in the specification.

Claim 36 is new and is supported on page 10, lines 14-33, in the specification.

Claim 37 is new and is supported on page 9, lines 17-20, in the specification.

Claim 38 is new and is supported on page 9, lines 24-29, in the specification.

Claim 39 is new and is supported on page 9, lines 30-31, in the specification.

Claim 40 is new and is supported by Claim 30.

No new matter is believed added to this application by entry of this amendment.

Upon entry of this amendment, Claims 28-30 and 32 to 40 are active.

REMARKS/ARGUMENTS

The claimed invention is directed to a self-cleaning surface and articles containing the self-cleaning surface. A self-cleaning surface having a very good lotus effect which can be applied to a substrate by a dry application method which does not require a carrier, adhesive or solvent is sought.

The claimed invention addresses this problem by providing a self-cleaning surface according to Claim 28 and claims dependent thereon.

Applicants wish to thank Examiner Watkins for the useful and courteous discussion of the above-identified application with Applicants' U.S. representative on October 16, 2008. At that time possible amendments to the claims were reviewed and discussed. The following reiterates and expands upon that discussion.

Applicants respectfully note that Claim 28 is herein amended to be an independent claim. Support for the description included in the claim is provided in the Support for the Amendments section of this paper.

The rejection of Claims 28-30 and 32 under 35 U.S.C. 103(a) over Keller et al. (U.S. 2002/0016433) is respectfully traversed.

Keller describes a composition for producing difficult to wet surfaces containing a powder having a hydrophobic surface and at least one film-forming binder which is also hydrophobic (Claim 1). Paragraphs [0071] to [0073] describe application of the coating composition using solvent, adhesive or thermoplastic polymeric binder. Nowhere does this reference disclose or suggest a substrate surface having elevations consisting of **particles embedded and anchored in the substrate, without a carrier adhesive or solvent** as according to the claimed invention.

In view of the above, Applicants respectfully submit that Keller cannot anticipate or render the claimed invention obvious. Accordingly, withdrawal of the rejection of Claims 28-30 and 32 under 35 U.S.C. 103(a) over Keller is respectfully requested.

The rejection of Claims 28-30 and 32 under 35 U.S.C. 103(a) over Keller in view of Krech (U.S. 6,258,201) is respectfully traversed.

The Office has cited Krech to show an exposed particle surface in a plastic substrate by flame spraying the particles in the surface.

Krech describes a method to produce an abrasive article, a retroreflective article, a pavement marking article or a non-skid article. The average size of the particles is generally **5 to 6550 mm** (Col. 8, line 31). Krech further describes:

“In some embodiments, it may be desired to provide a resin, adhesive or other primer or coating for example ethylene acrylic acid or any other suitable primer, on the polymeric web prior to impingement of the particles.” (Col. 4, lines 26-31)

“It is also possible to have a surface coating on the particles. Surface coatings may be used to increase the adhesion of the polymeric sheet to the particle, alter the abrading characteristics of abrasive particles, improve the processability through the thermal sprayer, or for other desired purposes.” Col. 9, lines 15-20)

The Office has stated:

“It would have been obvious to one of ordinary skill in the art to have used the alternate process of Krech using flame spraying in order to form a particulate sheet for lamination to a substrate instead of coating the substrate with liquid polymers in order to avoid handling solvents at the final installation point because of the teachings of Krech. It is an obvious matter for one of ordinary skill in the art to select different manufacturing processes from a limited set of known processes in order to form a specific article.” (Official Action, dated August 13, 2008, page 3, lines 12-18)

In a Precedential Opinion rendered by the Board of Patent Appeals and Interferences in *Ex parte* Whalen II (Appeal 2007-4423, Application 10/281,142) on July 23, 2008, the Board stated:

“The KSR Court noted that obviousness cannot be proven merely by showing that the elements of a claimed device were known in the prior art; it must be shown that those of ordinary skill in the art would have had some “apparent reason to combine the known elements in the fashion claimed.””

“The Examiner has not persuasively explained why a person of ordinary skill in the art would have had a reason to modify the compositions taught by Evans, Greff 767, or Taki in a way that would result in the compositions defined by the claims on appeal. Therefore, The Examiner has not made out a prima facie case of obviousness under 35 U.S.C. § 103.”

Applicants respectfully submit that Keller requires the presence of a binder to achieve the sought after coating composition for producing a difficult to wet surface. The reference specifically recites:

“We have found that this object is achieved in a coating composition comprising at least one porous powder having a high specific surface area which, additionally, is hydrophobic and at least one hydrophobic binder for the powder particles, the weight ratio of the hydrophobic powder to binder being at least 1:4.” [0015]

Applicants respectfully submit that Keller requires a binder as described and therefore, one of ordinary skill in the art, at the time of the invention would not have been motivated to combine the descriptions of the two references to arrive at the claimed invention. Moreover, Applicants respectfully submit that the Office has not explained why one of ordinary skill in the art would have derived the claimed invention from the two cited references.

In view of the above, Applicants respectfully submit that a conclusion of obviousness cannot be supported and withdrawal of the rejection of Claims 28-30 and 32 under 35 U.S.C. 103(a) over Keller in view of Krech is respectfully requested.

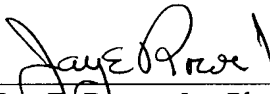
Applicants respectfully request that the provisional rejections of Claims 28-30 and 32 on the grounds of nonstatutory obviousness-type double patenting over Claims 11-20 of copending Application No. 10/506,993, over Claims 1-6 of copending Application No. 10/506,238, over Claims 1-12 of copending Application No. 10/506,236, over Claims 21-29 of copending Application No. 10/506,994, over Claims 1-8 of copending Application No. 10/506,604, over Claims 1-2, 5-24 of copending Application no. 10/474,624, and over Claims 19-20 and 22-25 of Application No.10/309,895 (now copending Application No. 11/249,315) and the rejection of Claims 28-30 and 32 on the ground of nonstatutory obviousness-type double patenting over Claims 1-9 of U.S. 6, 811,856 be held in abeyance pending identification of patentable subject matter in the above-identified application.

The objection to the specification is believed obviated by appropriate amendment. The specification is herein amended to include headings and description according to 37 C.F.R. § 1.77(b).

Applicants respectfully submit that Claims 28-30 and 32-40 are now in condition for allowance and early notice of such is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
Norman F. Oblon

  
\_\_\_\_\_  
Jay E. Rowe, Jr., Ph.D.  
Registration No. 58,948

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 08/07)